

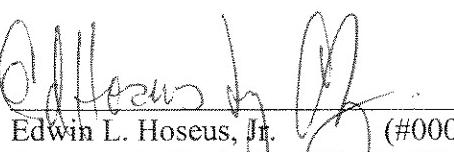
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY, : CASE NO. C-1-00-1056  
et al. : JUDGE WILLIAM O. BERTELSMAN  
Plaintiffs :  
vs. :  
PHYLLIS H. WALLACE, EXECUTRIX :  
OF THE ESTATE OF :  
CHRISTOPHER S. WALLACE, et al. :  
Defendants.

**DEFENDANT, PHYLLIS H. WALLACE'S PROPOSED JURY INSTRUCTIONS,  
JURY INTERROGATORIES AND VERDICT FORMS**

Now comes Defendant, Phyllis H. Wallace, and respectfully submits the attached  
Proposed Jury Instructions and Jury Interrogatories.

Respectfully submitted,

  
Edwin L. Hoseus, Jr. (#0008562)  
Attorney for Defendant Phyllis Wallace  
Executrix of the Estate of Christopher S. Wallace  
741 Milford Hills Drive  
Milford, Ohio 45150  
(513) 248-0317

  
Carl W. Zugelter (#0007865)  
Attorney for Defendant Phyllis Wallace,  
Executrix of the Estate of Christopher S. Wallace  
1285 W. Ohio Pike  
Amelia, Ohio 45102  
(513) 752-2338  
(513) 752-2234 fax

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon Brian A. Meeker,  
Attorney for Defendant Chrysler Insurance Co. via e-mail this 10<sup>th</sup> day of May, 2005.

  
Carl W. Zugelter (#0007865)  
Attorney for Defendant Phyllis Wallace,  
Executrix of the Estate of Christopher S. Wallace

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY, : CASE NO. C-1-00-1056  
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Plaintiffs :  
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Defendants.

Defendant Wallace requests and incorporates Defendant Chrysler's Jury Instructions numbers one through twenty-two with the exception of number two. In addition thereto Defendant Wallace requests that the following jury instruction be given to the jury

**REQUEST FOR JURY INSTRUCTION NO. 1**

**UNINSURED/UNDERINSURED MOTORIST COVERAGE**

This case is known as an underinsured motorist claim. Chrysler Insurance Company provided underinsured motorist coverage on the vehicle in which Christopher Wallace was a passenger. Under this coverage the Estate of Christopher Wallace is entitled to recover damages from Chrysler Insurance Company caused by the **negligence** of an underinsured motorist.

You will consider this case as if the Estate of Christopher Wallace's claims were against the driver of the other vehicle.

At the conclusion of this case, I will instruct you in greater detail on the law of **negligence** and damage.

*Tucker v. McQuery* (1999), 107 Ohio Misc. 2d 38, 736 N.E.2d 574.

*Gaul v. Westfield Insurance Company* (Aug. 20, 1999), Lake App. No. 97-L-278, unreported.

**JURY INSTRUCTION NO. 2**  
(Underinsured Motorist Claim)

It has been determined that Chrysler Insurance Company provides underinsured motor vehicle coverage for the automobile in which Christopher Wallace was a passenger at the time of his death. Issues of coverage are not for your determination. You must only resolve the issues of whether or not the accident of April 16, 1999 proximately caused bodily injury and/or death to the plaintiff and if so, to determine a reasonable amount to compensate the defendant's estate for the damages at law.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY, : CASE NO. C-1-00-1056  
et al. : JUDGE WILLIAM O. BERTELSMAN  
: Plaintiffs  
vs. : **JURY INTERROGATORY NO. 1**  
PHYLLIS H. WALLACE, EXECUTRIX :  
OF THE ESTATE OF :  
CHRISTOPHER S. WALLACE, et al. :  
Defendants. :

The parties have stipulated that Brian Downey was negligent and that his negligence was a direct and proximate cause of the death of Christopher Wallace.

Was Christopher Wallace, negligent (did he impliedly assume the risk of injury) (and did that negligence) (implied assumption of risk) directly and proximately cause his injury and death?

CIRCLE YOUR ANSWER IN INK

YES or NO

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If the answer to Interrogatory No. 1 is yes move to Interrogatory No. 2

If the answer to Interrogatory No. 1 is no do not answer Interrogatory No. 2, and move to Interrogatory No. 3, and sign the General Verdict for the Estate of Christopher Wallace.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY, : CASE NO. C-1-00-1056  
et al. : JUDGE WILLIAM O. BERTELSMAN

Plaintiffs :  
vs. : **JURY INTERROGATORY NO. 2**

PHYLLIS H. WALLACE, EXECUTRIX :  
OF THE ESTATE OF  
CHRISTOPHER S. WALLACE, et al. :

Defendants. :

State the percentages of negligence (implied assumption of the risk) (or both) that directly and proximately caused Christopher Wallace's decedent's injury or death:

Percentage of negligence (implied assumption of the risk) (or both) attributable to Christopher Wallace: \_\_\_\_\_ %

Percentage of negligence attributable to Brian Downey: \_\_\_\_\_ %

These percentages must equal the total of ..... 100%

If the percentage attributable to Christopher Wallace is 50% or less move to Interrogatory No. 3 and sign the General Verdict for the Estate of Christopher Wallace.

If the percentage attributable to Christopher Wallace is greater than 50% do not answer Interrogatory No. 3 and sign the General Verdict for the Defendant Chrysler Insurance and report to the Court that you have completed your deliberations.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY, : CASE NO. C-1-00-1056  
et al. : JUDGE WILLIAM O. BERTELSMAN  
: Plaintiffs  
vs. : **JURY INTERROGATORY NO. 3**

PHYLLIS H. WALLACE, EXECUTRIX :  
OF THE ESTATE OF  
CHRISTOPHER S. WALLACE, et al. :

Defendants. :

State to total amount of compensatory damages to the Estate of Christopher Wallace without regard to the percentage of negligence (implied assumption of risk) (or both) attributable to Christopher Wallace.

State your answer in figures in ink \$ \_\_\_\_\_

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY,  
et al. : CASE NO. C-1-00-1056  
Plaintiffs : JUDGE WILLIAM O. BERTELSMAN  
vs. :  
GENERAL VERDICT

PHYLLIS H. WALLACE, EXECUTRIX  
OF THE ESTATE OF  
CHRISTOPHER S. WALLACE, et al.

**Defendants.**

We, the jury, do hereby find for the Estate of Christopher Wallace and we find that the total amount of damages is \$ , as decided in Interrogatory No. 3.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY,  
et al. : CASE NO. C-1-00-1056  
Plaintiffs : JUDGE WILLIAM O. BERTELSMAN  
vs. :  
GENERAL VERDICT

PHYLLIS H. WALLACE, EXECUTRIX  
OF THE ESTATE OF  
CHRISTOPHER S. WALLACE, et al.

Defendants. : ;

We, the jury, do hereby find for the Defendant Chrysler Insurance